

Message

---

**From:** Minter, Douglas [Minter.Douglas@epa.gov]  
**Sent:** 5/17/2017 3:22:58 PM  
**To:** Shea, Valois [Shea.Valois@epa.gov]  
**CC:** Bahrman, Sarah [Bahrman.Sarah@epa.gov]  
**Subject:** RE: Email from Stan Michals of the South Dakota Game Fish and Parks regarding consultation under ESA

Valois: I think we can tell him about the extension now that the decision has been made and we are notifying all interested parties (including Powertech as of yesterday).

## Ex. 5 Deliberative Process (DP)

Can you contact Lucita?

Douglas

---

**From:** Shea, Valois  
**Sent:** Wednesday, May 17, 2017 8:53 AM  
**To:** Minter, Douglas <Minter.Douglas@epa.gov>  
**Cc:** Suchomel, Bruce <Suchomel.Bruce@epa.gov>  
**Subject:** FW: Email from Stan Michals of the South Dakota Game Fish and Parks regarding consultation under ESA

Hi Douglas & Bruce,

Stan Michals of the South Dakota Game Fish and Parks would like to talk about consultation under ESA. Please see his most recent email below.

Bruce, Is he the guy you spoke with at SD GFP?

Would it be OK if I email him back and let him know about the public comment period extension & say we could set up a conference call with him later this week? I don't really recall the specifics of what was done so I would need an update to remind me.

Thanks!

*Valois*

---

Valois Shea  
U.S. EPA Region 8  
MailCode: 8WP-SUI  
1595 Wynkoop Street  
Denver, CO 80202-1129  
Phone: (303) 312-6276  
Fax: (303) 312-6741  
Email: [shea.valois@epa.gov](mailto:shea.valois@epa.gov)

---

**From:** Michals, Stan [<mailto:Stan.Michals@state.sd.us>]  
**Sent:** Tuesday, May 16, 2017 4:58 PM  
**To:** Shea, Valois <[Shea.Valois@epa.gov](mailto:Shea.Valois@epa.gov)>  
**Subject:** RE: Dewey-Burdock Class III and Class V Injection Well Draft Area Permits

Thanks,

Are the Dewey Burdock radon settling ponds considered an impoundment and if so will 144.4 apply? I am debating options of sending comments or requesting 144 consultation. I see you provided a telephone number in your last email message. I can call you with this question if it necessitates a lengthy discussion.

§ 144.4 Considerations under Federal law.

(e) The *Fish and Wildlife Coordination Act*, 16 U.S.C. 661 *et seq.*, requires the Regional Administrator, before issuing a permit proposing or authorizing the impoundment (with certain exemptions), diversion, or other control or modification of any body of water, consult with the appropriate State agency exercising jurisdiction over wildlife

Stan

---

**From:** Shea, Valois [<mailto:Shea.Valois@epa.gov>]  
**Sent:** Tuesday, May 16, 2017 1:36 PM  
**To:** Michals, Stan  
**Subject:** RE: [EXT] Dewey-Burdock Class III and Class V Injection Well Draft Area Permits

Hi Stan,

The UIC Program is not required to do a NEPA analysis for our permitting actions, so therefore, the Administrative Record does not provide analysis of various alternatives such as No Action or alternative actions. Under the UIC regulation 40 CFR §144.33 (c)(3) *The cumulative effects of drilling and operation of additional injection wells are considered by the Director during evaluation of the area permit application and are acceptable to the Director.* That is why we have the Draft Cumulative Effects Analysis document for the area permits on the record for review and comment.

The NRC SEIS evaluated the No Action and alternative actions. That document can be found at:  
<https://www.nrc.gov/docs/ML1402/ML14024A477.pdf>

*Valois*

---

Valois Shea  
U.S. EPA Region 8  
MailCode: 8WP-SUI  
1595 Wynkoop Street  
Denver, CO 80202-1129  
Phone: (303) 312-6276  
Fax: (303) 312-6741  
Email: [shea.valois@epa.gov](mailto:shea.valois@epa.gov)

---

**From:** Michals, Stan [<mailto:Stan.Michals@state.sd.us>]  
**Sent:** Tuesday, May 16, 2017 12:57 PM

**To:** Shea, Valois <Shea.Valois@epa.gov>

**Subject:** RE: Dewey-Burdock Class III and Class V Injection Well Draft Area Permits

Hi Valois,

A NEPA related question for you:

Will EPA's "decision" / Administrative Record provide analysis of various alternatives? That is, consideration of No Action (no permit), and alternative actions (permit with various conditions).

Thank you,

Stan

---

**From:** Michals, Stan

**Sent:** Friday, March 24, 2017 3:06 PM

**To:** 'shea.valois@epa.gov'

**Subject:** Dewey-Burdock Class III and Class V Injection Well Draft Area Permits

Hi Valois,

I am reviewing information provided for in the 'Public Notice: Administrative Record for the Dewey-Burdock Class III and Class V Injection Well Draft Area Permits' <https://www.epa.gov/uic/administrative-record-dewey-burdock-class-iii-and-class-v-injection-well-draft-area-permits> . I'm unclear if the "Additional Administrative Record Documents", specifically, the 'Draft Cumulative Effects Analysis' are considered a component of the Class III and V draft permits and thus subject to review and comments. The statement below is copied from the website and if read literally, it could be understood to mean that comments are sought only for the Class III and V draft area permits, and the identification of traditional cultural properties...My agency would like to provide comments on both the contents of the permits and Draft Cumulative Effects Analysis. Please provide us with an explanation of the scope of EPA's request.

In addition to seeking comments on the Class III and V draft area permits, the EPA is seeking public comment on the identification of traditional cultural properties at the Dewey-Burdock Project Site Area of Potential Effects, on the potential adverse effects of the proposed project, and on measures to avoid, minimize or mitigate potential adverse effects on historic and traditional cultural properties pursuant to Section 106 of the National Historic Preservation Act and 36 CFR § 800.2(d) and § 800.6(a)(4).

The EPA is also seeking comment on two options for approval of the aquifer exemption that Powertech requested related to the Class III permit application. The two options are discussed in the Aquifer Exemption Draft Record of Decision available on the EPA Region 8 UIC Program website.

The EPA has performed an Environmental Justice (EJ) analysis for the Dewey-Burdock UIC permitting actions and is seeking comment on the Draft EJ analysis document.

Thank you,

Stan Michals -Energy and Minerals Coordinator

SD/Game, Fish and Parks

4130 Adventure Trail

Rapid City, SD 57702

Office (605)394-2589

Fax (605)394-1793

[Stan.Michals@state.sd.us](mailto:Stan.Michals@state.sd.us)

*"Serving People, Managing Wildlife"*

***The Division of Wildlife will manage South Dakota's wildlife and fisheries resources and their associated habitats for their sustained and equitable use, and for the benefit, welfare, and enjoyment of the citizens of this state and its visitors.***

